

RECEIVED
CENTRAL FAX CENTER
JUL 14 2008

PTO/SB/21 (01-08)

Approved for use through 09/30/2008, OMB 0851-0031
 U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	107790,889	
	Filing Date	March 1, 2004	
	First Named Inventor	O'NEILL, Mary M.	
	Art Unit	2878	
	Examiner Name	WYATT, Kevin	
Total Number of Pages in This Submission	4	Attorney Docket Number	03W124

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Letter to SPE Georgia Y. Epps
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Raytheon Company		
Signature	<i>Leonard A. Alkov</i>		
Printed name	Leonard A. Alkov		
Date	July 14, 2008	Reg. No.	30,021

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature	<i>Susan Antrillo</i>		
Typed or printed name	Susan Antrillo	Date	July 14, 2008

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

RECEIVED
CENTRAL FAX CENTER

PD-03W124

JUL 14 2008

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of)	
Mary Morabito O'Neill et al.)	GAU: 2878
Ser. No. 10/790,889)	Examiner:
Filed: March 1, 2004)	Kevin Wyatt
For: IMAGING SENSOR SYSTEM WITH STAGGERED)	
ARRANGEMENT OF IMAGING DETECTOR)	
SUBELEMENTS, AND METHOD FOR LOCATING)	
A POSITION OF A FEATURE IN A SCENE)	

LETTER TO SPE GEORGIA Y. EPPS

Commissioner for Patents

Attn: Georgia Y. Epps, SPE, GAU 2878

P.O. Box 1450

Alexandria, VA 22313-1450

Dear SPE Epps:

We write to ask you to investigate and correct a procedural failure of the examiner in this case.

Since this case was previously withdrawn from appeal, claims 6-10 and 16 have not been allowed, objected to, or properly rejected.

Our Response of May 21, 2008, a portion of which is quoted below, explains the problem:

- 2 -

[begin excerpt]

"Failure to take action on claims 6-10 and 16

Applicant again calls to the Examiner's attention the fact that claims 6-10 and 16 are not addressed in the specific rejections set forth in the Detailed Action. There is mention of claims 6-10 in the paragraph at the bottom of page 7 of the final Office Action, and there is mention of claim 16 in the paragraph at the bottom of page 5 of the final Office Action. These mentions of claims 6-10 and 16, in the explanation of a rejection that does not include these claims, do not conform to the requirements for a rejection set forth in MPEP 707.07(d), which states

MPEP 707.07(d) Language To Be Used in Rejecting Claims

"Where a claim is refused for any reason relating to the merits thereof it should be 'rejected' and the ground of rejection fully and clearly stated, and the word 'reject' must be used. The examiner should designate the statutory basis for any ground of rejection by express reference to a section of 35 U.S.C. in the opening sentence of each ground of rejection."

This error is not a "typo" or anything of the sort. Instead, it is a deficiency in the statement of the rejection.

Applicant called this problem to the attention of the Examiner in the prior Response to Office Action, yet there is no response at all in the present Office Action.

Applicant suggests that the Examiner issue a new nonfinal rejection in the case with claims 6-10 and 16 explicitly stated in the appropriate grounds of rejection. These claims have not yet been rejected under the new set of rejections after the prior appeal was withdrawn. Otherwise, on the new appeal Applicant can only include the rejections as set forth in the Final Office Action as the "Grounds of rejection to be reviewed on appeal", and these rejections do not include claims 6-10 and 16. Applicants are not

- 3 -

allowed to revise the statements of the rejections. Accordingly, upon filing a new appeal claims 6-10 and 16 would have to be treated as allowed."
[end excerpt]

The Examiner responds in the first substantive paragraph on page 2 of the Advisory Action of June 19, 2008,

"In response to applicant's arguments regarding claims 6-10 and 16, the rejection of these claims have been adequately addressed. Although they appear to be missing from the initial statements in items 6 and 7 of the previous Office Action, the rejection of claims 6-10 and 16 are clearly provided within the body of the Office Action under U.S.C. 103(a)."

We have encountered this problem previously with other examiners. In each case, this led to the examiner waiting until Applicant had prepared an Appeal Brief, and then withdrawing the case from appeal to correct the problem that the examiner had created by not following the MPEP. This increases the cost to the Applicant and delays the processing of the application by the PTO.

We ask you to require the present examiner to correct this situation by withdrawing the case from final rejection, and issuing a new nonfinal office action that properly states the grounds of rejection in conformance with MPEP 707.07(d).

If you choose not to take this action, we will accept the failure to take action as a representation by you that the application will not be withdrawn from appeal after we have prepared and filed an appeal brief, for this or for some other reason in an attempt to cover for this procedural failure.

Respectfully submitted,



Leonard A. Alkov,

Reg. No. 30,021

Attorney for Applicant